MINUTES FOR THE MEETING OF THE BOARD OF LAND OF NATURAL RESOURCES

DATE: FRIDAY, JULY 10, 2015
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
        LAND BOARD CONFERENCE ROOM 132
        1151 PUNCHBOWL STREET
        HONOLULU, HAWAI‘I 96813

Chairperson Suzanne D. Case called the meeting of the Board of Land and Natural Resources to order at 9:05 a.m. The following were in attendance:

MEMBERS
Suzanne D. Case
Thomas Oi
Christopher Yuen
Keone Downing

STAFF
Kevin Moore-LAND
Randolph Lee-SHPD
Andrew Choy-DOCARE
Carty Chan-ENG
Keith Chun-LAND
Scott Fretz-DOFAW

OTHERS
Dan Morris/Deputy AG
Ethan Tomokiyo/DOT-AIR
Grace Bezilla/D-2, L-5
Felicia Calden/D-3
Brutus La Benz/D-9
Terri Napeahi/L-5
Keith Kiuchi/J-1
Doug Chin/Deputy Attorney

ITEM M-1  Resubmittal: Consent to Issuance of Revocable Permit for Space under Governor’s Executive Order No. 3283 to Maui AIDS Foundation, Lāhainā, Maui, Tax Map Key: (2) 4-5-021:016.

ITEM M-2  Resubmittal: Consent to Issuance of Revocable Permit for Space under Governor’s Executive Order No. 3283 to Maui Sexual Assault Center, A
There was no public testimony and the Board had no questions.

Unanimously approved as submitted (Gomes, Woodside)

ITEM M-3 Issuance of a Revocable Permit for Aircraft Parking, Brian J. Daniel, Honolulu International Airport, Tax Map Key: (1) 1-1-76: Portion of 23.

ITEM M-4 Amendment No. 1 to State Lease No. DOT-A-14-0015, Additional Space, Y. Hata & Company, Limited, Ualena Street, Honolulu International Airport, Tax Map Key: (1) 1-1-04: Portion of 13.

Ann Shige Property Manager with the Department of Transportation-Airports Division-DOT-AIR presented items M-3 and M-4.

Unanimously approved as submitted (Gomes, Yuen)

ITEM M-5 Issuance of a Revocable Permit for Parking and Staging of Ground Service Equipment, Koolau Aviation Services Inc., Līhuʻe Airport, Tax Map Key: (4) 3-5-01: Portion of 8.

Ethan Tomokikyo Property Manager with the Department of Transportation-Airports Division-DOT-AIR presented item M-5.

Unanimously approved as submitted (Gomes, Yuen)

ITEM D-1 Final approval of the Acquisition of Government (crown) Lands and Issuance of a right-of-entry permit to University of Hawaiʻi for lands at Waiākea, South Hilo, Island of Hawaiʻi, Tax Map Keys: (3) 2-4-56:16.

ITEM D-2 Amend Prior Board Action of June 13, 2014, Item D-6, Direct Lease to the University of Hawaiʻi for Education, Housing, and Related Purposes, Waiākea, South Hilo, Hawaiʻi, Tax Map Key: (3) 2-4-001:024 and (3) 2-4-056:014. And

Purpose of the amendment is to: 1) include in the direct lease to the University of Hawaiʻi, the former U.S. Army Reserve Site, identified as Tax Map Key: (3) 2-4-056:016, and 2) approve lease form for issuance of direct lease to the University of Hawaiʻi.

Kevin Moore Assistant Administrator for the Land Division-LAND reviewed items D-1 and D-2.

Member Roehrig called up Harry Yada.
Harry Yada, Director of property, University of Hawaii Hilo introduced himself.

Member Roehrig explained that he did research to find out who this facility was being dedicated to. After doing research Member Roehrig agreed to approve this with the condition that UH pursues the process of transferring the name of the facility on the subject land.

Grace Bezilla testified in opposition of item D-2.

Member Roehrig made a motion to approve with the amendment he suggested earlier. Member Yuen seconded.

**Item D-1 was unanimously approved as submitted.** However, Board Member Roehrig requested that the University of Hawaii at Hilo pursue the process of transferring the name of the facility on the subject land (SFC Minuro Kunieda) to a facility at the Hilo Airport, and if unsuccessful, to keep the name at the facility on the subject land.

**Item D-2 was unanimously approved as submitted.**

**Unanimously approved as submitted (Roehrig, Yuen)**

**ITEM D-3 Sale of Old Government Road Remnant to Robinson Family Partners, por. of Makaweli, Waimea, Kaua‘i, Tax Map Key: (4) 1-7-005:por. 001.**

Kevin Moore-LAND conveyed item D-3 and recommended Board Approval.

Michael Ellis representing the Robinson Family Partners urged to support the staff recommendation.

Member Gomes asked what would be developed.

Ellis explained that a low density resort would be developed.

Member Roehrig recused himself from this vote.

Felicia Calden from Kauai asked that there be a point for public input. She knew of many people from Kauai who weren’t aware of this. Calden asked that this not be approved until it goes before the public.

Michael Ellis commented in regards to Calden’s comments that there are public accesses throughout the property.

Lance Hai’li Lincoln requested that Member Roehrig not vote on this item.

**Unanimously approved as submitted (Oi, Gomes)**
ITEM K-4  Conservation District Use Application (CDUA) KA-3724 for the Demolition and Removal of an Existing 0.2 Million Gallon (MG) Water Tank and the Installation of a New 0.5 MG Water Tank and Additional Site Improvements by the County of Kaua‘i, Department of Water Located at the Kukuiolono Park and Golf Course, Kalāheo, Kaua‘i, Tax Map Key: (4) 2-3-005; Portions of 002, 006, and 025.

Sam Lemmo Administrator for the Office of Conservation and Coastal Lands-OCCL conveyed item K-4. He told the Board that the applicant was present and available for questions.

Unanimously approved as submitted (Oi, Gomes)

Item D-9  Consent to Sublease and Change of Permitted Use; General Lease No. S-5478, Office of Hawaiian Affairs, Lessee, to Hi’ipaka LLC, Sublessee, Haleiwa, Waiālua, O‘ahu, Tax Map Key: (1) 6-6-009:023.

Kevin Moore-LAND conveyed item D-9.

Member Downing asked what the square footage was.

Brutus La Benz from the Office of Hawaiian Affairs-OHA testified that it was about 299 square feet of that property. They will just lease out the offices on the right. La Benz said this would help the community at large.

Member Downing didn’t like the idea of leasing extra spaces.

Member Yuen asked what the relationship was with Hi’ipaka and OHA.

Richard Pezzulo, Executive Director for Hi’ipaka LLC, testified that they were a 501c3 and were established by OHA when they acquired Waimea Valley. They want to have a retail space so they can have a full time presence there. They will manage it, and will use it as an information center. Their mission is to preserve and perpetuate the human, cultural and natural resources of Waimea for generations through education and stewardship.

Member Yuen asked if the manager of Hi’ipaka LLC was a paid position. Pezzulo said no, they are called managers, but they are actually a Board of Directors. The 3 executives of OHA are called managers, but they are Board Members. They don’t get paid.

Member Yuen asked what laws are applied to a sublease by OHA.

La Benz explained that anyone that has ever wanted to utilize that space, they would need to provide services or benefits to their beneficiaries.

Chair Case asked Moore to over populate on the map side so the Board could get a good visualization.
Unanimously approved as submitted (Woodside, Gomes)

ITEM D-7  Grant of Term, Non-Exclusive Easement to August J. Monge and Veronica Q. Monge for Rock Seawall Purposes; Issuance of Management Right-of-Entry, Kaipapaʻu, Koʻolauloa, Oʻahu, Tax Map Key: (1) 5-4-003: Seaward of 035.

There was no public testimony and the Board had no questions.

Unanimously approved as submitted (Gomes, Yuen)

ITEM F-1  Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Christopher Wall, Hawaiʻi Institute of Marine Biology, University of Hawaiʻi, for Access to State Waters to Conduct Coral Bleaching Assessment Activities.

Maria Carnavale, State Co-manager for Papahānaumokuākea Marine National Monument-PMNM presented item F-1. The applicant, Chris Wong was present for questions.

Unanimously approved as submitted (Gomes, Oi)

ITEM B-1  Request Approval to Seek the Governor’s Approval to Indemnify the City and County of Honolulu, Department of Parks and Recreation, for the Use of the Koko Head Shooting Complex on September 19-20, 2015 for National Hunting and Fishing Day Celebration.

Andrew Choy with the Hunter’s Education Program reviewed item B-1, there were no changes and the Board had no questions.

Unanimously approved as submitted (Gomes, Woodside)

ITEM B-2  Request Board Approval to Enter into Contracts for Vehicle Purchase between the Department of Land and Natural Resources, Division of Conservation and Resources Enforcement (DOCARE), and Jim Falk Motors of Maui, Inc. and Rainbow Chevrolet.

Curt Smite, Assistant Administrator with the Division of Conservation and Resources Enforcement-DOCARE conveyed item B-2.

Member Yuen asked what the requested dollar amount was. Smite said it was about $623 dollars.

Unanimously approved as submitted (Gomes, Oi)

ITEM B-3  Request Board Approval to Delegate Authority to the Chairperson to Review and Approve Contracts for Purchases of Over $100,000 for the Department
of Land and Natural Resources, Division of Conservation and Resources Enforcement (DO CARE).

Item deferred.

ITEM L-5 Application for Geothermal Exploration Permit and Declaration of Exemption from Chapter 343, HRS. Hualālai West Rift Zone, Hawai‘i Tax Map Key: (3) 7-3-009:019, 025, 028, (3) 7-3-010:032, 035, 041, (3) 7-4-008:001, 005, 047, 057.

Carty Chang Chief Engineer for the Engineering Division-ENG presented item L-5 and told the Board that the applicant couldn’t make it from Hilo.

Terri Napeahi and Grace Bezilla testified in opposition.

Member Roehrig disclosed that he provides legal advice to the Napeahi family.

Member Gomes commented that this has been improved but the Board should take into consideration the people that live in the community and be sure the community is satisfied.

Unanimously approved as submitted (Yuen, Roehrig)

ITEM J-1 Termination of Boating Lease No. BO-13120 dated December 6, 2013 between the State of Hawai‘i, Lessor, and Honey Bee USA, Inc., Lessee; Cancellation of BLNR Approval of Non-Exclusive Term Easement to Honey Bee USA, Inc.; Honolulu, O‘ahu, Hawai‘i, Tax Map Keys (1) 2-3-037:012 (por) and 020; (1) 2-6-010:003 (por), 005 and 016.

Ed Underwood Administrator for the Division of Boating and Ocean Recreation-DOBOR reminded the Board that this was before them in March, but the Board decided to defer for 60 days; DOBOR did not have the performance bond at the time and they did not remain free of encumbrances. The Board decided to defer based on a number of conditions. As of right now Honey Bee is still behind on payment and there is still no performance bond. DOBOR is recommending termination. This week before the meeting DOBOR had discussions with the developer, and they may have found a lending partner. They are here to brief the Board.

Derron Akiona requested the Board defer taking action on this until the end of August. Since March 13 meeting the NEXT reality funding fell out. If at the end of August this doesn’t come through, then it can be terminated. Akiona said this has been going on long enough, he was tired of working on this project, so if the funding didn’t come in by the end of August, then they will walk away from the lease.

Keith Kiuchi did a brief background check on ICON.
Keith Chun-LAND commented that if Icon funded this project solely as a lender BLNR doesn’t have a right to approve or reject, but since they are requesting a 50% equity, it’s considered an assignment of the lease.

Underwood said he didn’t have a problem going until the end of August, but there needs to be an end date, and they would like to put on some conditions.

Sharon Lim representing a construction company testified that they support deferring until the end of August.

Member Yuen recommended deferring this item until the end of August. Member Gomes seconded.

All were in favor.

**Unanimously moved to defer (Yuen, Gomes)**

*Napeahi requested a contested case for item L-5.*

11:08AM Member Woodside left the room

**ITEM D-4** Issuance of Right-of-Entry Permit to Big Island Invasive Species Committee for Eradication of Invasive Albizia Trees located on Unencumbered State Lands at Keonepoko Iki, Keonepoko Nui and Maku‘u, Puna, Hawai‘i; Tax Map Keys: (3)1-5-009:009 & 010 and (3) 1-5-010:002 & 003.

**ITEM D-5** Amend Prior Board Action of June 27, 2014, Item D-6, Cancellation of Revocable Permit S-7711 Richard E. Souza and Donna Lee Souza with Issuance of New Month-to-Month Revocable Permit to Richard E. and Donna Lee Souza, for Pasture Purposes, Waiohinu, Kā‘ū, Hawai‘i, Tax Map Key: (3) 9-5-005: portion 003. And

The purpose of the amendment is to waive the requirement for a Phase 1 Environmental Site Assessment for the cancellation of the old permit.

**ITEM D-6** Issuance of Right-of-Entry to Hawai‘i Explosives and Pyrotechnics, Inc. For Aerial Fireworks Display on July 13, 2015 at Kahala Hotel, Waialae, Honolulu, O‘ahu, Tax Map Key: (1) 3-5-023: seaward of 041 (Portion).

**ITEM D-8** Request to Amend Prior Board Action of May 8, 2015 (Item D-16), Amendment and Consent to Assignment of Grant of Non-Exclusive Easement No. S-5339, Sunset View Properties, LLC, as Assignor, to Stephen James McGillin and Diane Lynn McGillin, Trustees of The STEPHEN AND DIANE MCGILLIN 2002 TRUST dated November 14, 2002, as Assignee,
The purpose of the current amendment is to clarify that there are two separate assignments at issue: (1) from Sunset View Properties, LLC, as Assignor, to Kenneth V. Krebs, as Assignee, and (2) subsequently from Kenneth V. Krebs, as Assignor, to Stephen James McGillin and Diane Lynn McGillin, Trustees of The STEPHEN AND DIANE MCGILLIN 2002 TRUST dated November 14, 2002, as Assignee. The prior Board action will therefore be amended to indicate the correct names of the assignors and assignees. An additional purpose of amendment is to modify the standard form of Board consent to exclude any covenant by the assignor regarding continuing liability under the easement.

ITEM D-10 Issuance of Right-of-Entry Permit to Hawai‘i Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Lanikuhonua Beach on July 18, 2015, Honouliuli, Ewa, Honolulu, O‘ahu, Tax Map Key: (1) 9-1-057:seaward of 001 (Portion).

There were no changes and there was no public testimony for items D-4, D-5, D-6, D-8 or D-10.

Unanimously approved as submitted (Gomes, Roehrig)

11:10AM Member Woodside returned
11:10AM Member Roehrig left the meeting

ITEM E-1 Consent to Assign General Lease No. SP-0167 Damascio and Thelma Ruiz, Assignors, to Russel Fu and Tracy Fu, Assignees, Lot 38 Pu‘u Ka Pele, Waimea Canyon State Park, Waimea (Kona), Kaua‘i, Tax Map Key: (4) 1-4-002:043.

Dan Quinn Administrator for State Parks-PARKS conveyed item E-1.

Unanimously approved as submitted (Gomes, Oi)

ITEM K-2 Request by Sandy L. Feng to Deviate from the Hawai‘i Administrative Rules, Chapter 13-5, Single Family Residential Standards to Place a Water Tank Within the Setback Area of a Parcel Located at 121 Forest Ridge Way, Tantalus, Honolulu, O‘ahu, Tax Map Key: (1) 2-5-016:023.
ITEM K-3  Conservation District Use Application (CDUA) OA-3739 for a Single Family Residence and Related Improvements by Adam Spurgat and Jacey Waterhouse Located at Tantalus, Honolulu, O'ahu, Tax Map Key: (1) 2-5-018:016.

Sam Lemmo-OCCL reviewed items K-2 and K-2. There were no questions and no public testimony.

Unanimously approved as submitted (Gomes, Oi)

ITEM L-1  Authorization to Issue Procurement Solicitations and Award of Contracts Under Hawai‘i Revised Statutes Chapter 103D for Various Capital Improvements Program Projects Listed in Exhibit 1.

ITEM L-2  Certification of Elections of Karen Ah Mai, Cid Inouye and Melissa Zeman and Appointment of Iris Iwami and Dudley Kubo to Serve as Directors of the South O‘ahu Soil and Water Conservation District.

ITEM L-3  Certification of Elections of Koa Chang and Jacob Tavares to Serve as Directors of the Olinda-Kula Soil and Water Conservation District.

ITEM L-4  Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawai‘i Administrative Rules for Job No. J45CO49C, Ka‘iwi State Scenic Shoreline Rockfall Mitigation, O‘ahu, Hawai‘i.

ITEM L-6  Certification of Elections of Virginia Alderson, Troy Keolanui and Dylan Stropshire to Serve as Directors of the Hāmākua Soil and Water Conservation District.

Carty Chang-ENG presented items L-1, L-2, L-3, L-4 and L-6; there were no changes and no public testimony.

Unanimously approved as submitted (Gomes, Oi)

Member Gomes made a motion to go into Executive Session pursuant to Section 92-5(a) (4), Hawai‘i Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board’s powers, duties, privileges, immunities and liabilities. Member Woodside seconded.

Unanimously moved to go into Executive Secesssion.

11:16 AM   EXECUTIVE SECESSION
1:08 PM   RECONVENE
ITEM C-1  Request For Delegation of Authority For Permits and Actions Under Hawaii Administrative Rules Chapters 13-122 And 13-123, To The Chairperson, The Administrator and Branch Managers of The Division of Forestry And Wildlife

And

Authorize The Chairperson, And The Administrator And Branch Managers of The Division of Forestry And Wildlife To Determine And Approve Chapter 343, Hawaii Revised Statutes (HRS) Environmental Compliance Requirements, Including Approval of Declarations of Exemptions, as Applicable, For Permits Issued Under The Rules Regulating Hunting In Hawaii Administrative Rules Chapters 13-22 And 13-124.

The Rules can be reviewed online at http://ltgov.hawaii.gov/the-office/administrative-rules/ or can be reviewed or obtained in person at the Division of Forestry and Wildlife (DOFAW) offices on O‘ahu at 1151 Punchbowl St. Room 325 Honolulu, Hawai‘i, from 8:00 am to 3:30 pm, Monday through Friday, except Holidays.


Unanimously approved as amended (Yuen, Roehrig)

ITEM C-2  Request For Approval to Adopt a New Section Under Hawaii Administrative Rules As Title 13 Chapter 123 Section 21.2 To Restrict Use of and Access to Portions of Public Hunting Areas, Units A and K, Mauna Kea, Hawaii Island, Through Emergency Rulemaking Procedures To Protect Against Imminent Peril To Public Safety and Natural Resources.

The Rules can be reviewed online at http://ltgov.hawaii.gov/the-office/administrative-rules/ or can be reviewed or obtained in person at the Division of Forestry and Wildlife (DOFAW) offices on O‘ahu at 1151 Punchbowl St. Room 325 Honolulu, Hawai‘i, 96809 or on Hawaii Island at 19 E. Kawili Street, Hilo, Hawaii 96720 from 8:00 am to 3:30 pm, Monday through Friday, except Holidays.

82 people orally testified, 6 were in support, 76 were opposed.

Ku Ching, Walter Rittee and Williamson Chang requested a contested case.

2:5 Vote

Member Woodside and Member Gomes were opposed.

Approved as submitted (Yuen, Roehrig)
There being no further business, Chairperson Suzanne D. Case adjourned the meeting at 10:38 p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson’s Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,

Kuʻulei Moses
Land Board Secretary

Approved for submittal:

Suzanne D. Case
Chairperson
Department of Land and Natural Resources